FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
FAMILY COURT APPEAL NO.139 OF 2004
With
C.A.NO.139 OF 2004 & C.A.NO.164 OF 2005

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mrs.Chitra Phadke for appellant.

Mr.S.A.Bhagwat for respondent.

CORAM : H.L GOKHALE &
SMT.R.S.DALVI, JJ.
DATED : 11th October 2005

P.C. :

1. Heard Mrs.Phadke in support of this Appeal which is filed by a husband. Mr.Bhagwat appears for respondent-wife.

2. The order under challenge is an order dated 30th October 2004 passed by the Family Court at Pune, dismissing the divorce Petition filed by the appellant. The divorce Petition came to be dismissed since the appellant-husband had not deposited the arrears of interim alimony as directed earlier and

had also failed to deposit Rs.25,000/- which were to be deposited as a part payment towards those arrears.

3. Mrs.Phadke has taken instructions from the appellant and his mother, who is present. Mr.Bhagwat has taken instructions from the respondent. We have calculated the arrears that would be payable under the order dated 29.11.2003, which led to this impugned order dated 30th of October 2004. On a rough and ready basis, we have arrived at figures of the amount due by the end of September 2005. According to the respondent, the amount of arrears is Rs.3,89,000/-, whereas according to the appellant it comes to Rs.3,32,000/-. Mrs.Phadke has requested a reduction since a lump sum payment is proposed to be made. She has also requested that the monthly

amount of Rs.20,000/- be appropriately reduced.

4. Mr.Bhagwat has taken instructions and has stated that the respondent is leaving it to the Court if a lump sum payment of atleast Rs.3,25,000/- is to be made now towards all these arrears. He further states that in the event this payment is made, the respondent is leaving it to the Court to appropriately reduce the monthly payment.

5. In view of these statements made by both the parties, we direct the appellant to pay the amount of Rs.2,50,000/- to the respondent by Demand Draft on or before 15th October 2005. The remaining amount of Rs.75,000/- towards the arrears will be paid by end of November 2005. On this amount of Rs.2,50,000/- being paid to the

respondent, the respondent and/or her Advocate will pass over an appropriate receipt and on obtaining that receipt, the appellant will apply to the Registrar General for issuance of a certificate that the son Arjun born on 18th February 1995 is in the custody of the respondent as the natural guardian. He is directed to issue a certificate accordingly.

6. As far as the monthly payment is concerned, as of now, the order passed on 29th November 2003 is providing for the liability of the appellant. Under this order, an amount of Rs.20,000/- is to be paid per month. Beginning with the month of October, we reduce this amount to Rs.15,000/-, which shall be separately paid again on or before 15th October 2005 and by 15th of each month thereafter.

7. In view of this payment of Rs.2,50,000/- and thereafter Rs.75,000/-, which will be paid by end of November 2005, the order under challenge passed on 30th October 2004 will stand set aside. On this payment being made, the proceedings filed by the appellant for divorce will stand revived to the file of the trial Court. We expect the trial Court to hear and decide the divorce Petition expeditiously. The Appeal as well as Civil Application No.139 of 2004 for stay and Civil Application No.164 of 2005 for the certificate stand disposed of.

8. Both Mrs.Phadke and Mr.Bhagwat state that the parties are hopeful of an overall settlement. In the event they arrive at one, it will be open to them either to apply to the trial Court to record the settlement in

terms thereof or they may move a Civil Application in this Court for appropriate orders.

9. In view of the modification in the order dated 29th November 2003 passed on Petition No.702 of 2003, all proceedings arising therefrom will stand disposed of and will be governed by this order.

(H.L.GOKHALE, J.)

(SMT.R.S.DALVI, J.)